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09/991,389	11/21/2001	Stuart Ozer	14531.151	5411
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WORKMAN NYDEGGER/MICROSOFT 1000 EAGLE GATE TOWER 60 EAST SOUTH TEMPLE SALT LAKE CITY, UT 84111			SANTOS, PATRICK J D	
			ART UNIT	PAPER NUMBER
			2161	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. \_\_\_\_\_

09/991,389

Applicant(s) \_\_\_\_\_

OZER ET AL.

Examiner \_\_\_\_\_

Patrick J Santos

Art Unit \_\_\_\_\_

2161

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 49-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 49-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date Aug. 4, 2004
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-9, 11-18, 52-54 and 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,721,827 issued to Logan et al. (hereafter Logan '827) in view of U.S. Patent No. 6,286,005 to Cannon (hereafter Cannon '005) in further view of U.S. Patent No. 6,144,944 issued to Kurtzman et al. (hereafter Kurtzman '944).

Claims 1 and 11:

Regarding Claims 1 and 11 Logan '827 discloses: a method and a computer program product comprising one or more computer readable media having computer-executable instructions for implementing said method, for delivering advertisement content to a view according to an advertising plan that is executed in a system that includes at least one processor configured to display advertisements to a viewer (Logan '827: Abstract, col. 4, lns. 14-27; col. 2, ln. 67 to col. 3, ln. 18), the method comprising the acts of:

- receiving, at a control module, for each advertisement, a schedule defining a particular period of time (Logan '827: col. 2, lns. 22-24 – note actual proposed listening schedule) during which the advertisement should be displayed, a location for the display of the advertisement (Logan '827: col. 2, lns. 10-15; col. 5, lns. 20-49; col. 24, lns. 1-4 – additionally note that a download processing, mechanism, Fig 1.,

- Item 151, reads on a control module), an indicator of the advertisement type (Logan '827: col. 24, lns. 20-27 – note Subject Type reads on Advertisement Type), and a weight for the advertisement (Logan '827: col. 25, lns. 15-20; col. 25, lns. 26-45);
- generating a data file defining, for each advertisement, the advertising type, weight, location, and schedule for display of the advertisement content for the advertisement (Logan '827: col. 5, lns. 37-49; col. 2, lns. 10-23; col. 24, lns. 1-15); and
  - upon retrieving the advertisement content for the advertisement, delivering the advertisement content and the data file to at least one receiver module configured to display the advertisement content of the advertisement in accordance with the data file in such a way as to satisfy the advertising impression goal (Logan '827: Fig. 1; col. 24, lns. 13-15 – In Fig. 1, note item 135 (advertising), item 151 (download processing), items 125, 127, and 129 (transmit data), and item 103 (receiver)).

However, Logan '827 does not explicitly disclose:

- that the weight is used to determine an order and frequency to display the advertisement during the defined period of time and is defined by an advertising impression goal divided by a total number of available impressions for a defined target criteria; or
- that the display of the advertisement is such that the advertisement is displayed in an order and frequency defined by the weight of the advertisement relative to one or more other advertisements.

Cannon '005 discloses:

- that the weight is used to determine an order and frequency to display the advertisement during the defined period of time and is defined by an advertising impression goal divided by a total number of available impressions for a defined target criteria (Cannon '005: col. 38, lns. 22-61 – note the equation divides a sum of weights by a cost index value which reads on “available impressions for a defined target criteria).

However, Cannon '005 does not explicitly disclose:

- that the display of the advertisement is such that the advertisement is displayed in an order and frequency defined by the weight of the advertisement relative to one or more other advertisements.

Kurtzman '944 discloses:

- that the display of the advertisement is such that the advertisement is displayed in an order and frequency defined by the weight of the advertisement relative to one or more other advertisements (Kurtzman '944: col. 6, ln. 6 to col. 7, ln. 2 – note that modification of response characteristics reads on modifying order and frequency as defined by weight in the context of the combination of Logan '827 and Cannon '005).

It would have been obvious to a person having ordinary skill in the art to substitute the advertising type of Logan '827, which is set as subject type, to an indication of absolute and relative weights of Cannon '005. The motivation to combine is suggested by Cannon '005 which discloses the advantages the flexibility of mixing and matching various measures as input to advertising optimization, which would be enabled by indicating the type of weights input into the system (Cannon '005: col. 34, ln. 60 to col. 35, ln. 6).

It would have been further obvious to a person having ordinary skill in the art to apply the weight modification of Kurtzman '944 to the Logan '827 and Cannon '005 combination. The motivation to combine is suggested by Kurtzman '944 which discloses the advantage of providing a means to obtain a best match of advertisements to a user in an advertising system such as the Logan '827 and Cannon '005 combination (Kurtzman '944: col. 2, lns. 38-47).

Claims 2, 12, 52-54, and 58-60:

Regarding Claims 2 and 12, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose all the limitations of Claim 1 and 11 (supra). Additionally, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose:

- (Claims 2 and 12) wherein receiving, for each advertisement, the schedule, the location, the advertising type and the weight comprises receiving from a planning module remote from the control module, for each advertisement, the schedule, the location, the advertising type and the weight (Logan '827: col. 9, ln. 51 to col. 10, ln. 5 – note the user, which reads on a planning module remote from the control module). Examiner notes that Applicant's planning module enables either an administrator or an individual (which includes a user) for providing advertisement distribution information (Specification: para. [016]).
- (Claims 52 and 58) wherein the location defines a geographically defined market where the advertisement should be displayed (Logan '827: col. 5, lns. 37-49; col. 2, lns. 10-24; col. 24, lns. 1-15; col. 24, lns. 20-27; col. 25, lns. 15-20; col. 25, lns. 26-45 – note that in general, the calculation of the weight provides for input from many attributes, and any number and type of attributes are supported as per Logan '827:

- col. 44, lns. 33-39, including demographic information such as a geographically defined market).
- (Claims 53 and 59) wherein schedule further defines a particular duration during which the advertisement should be displayed during the defined period of time (Logan '827: col. 5, lns. 37-49; col. 2, lns. 10-24; col. 24, lns. 1-15; col. 24, lns. 20-27; col. 25, lns. 15-20; col. 25, lns. 26-45 – note that in general, the calculation of the weight provides for input from many attributes, and any number and type of attributes are supported as per Logan '827: col. 44, lns. 33-39, including the duration of an ad).
  - (Claims 54 and 60) wherein after receiving the weight at the receiver module, readjusting the weight for the advertisement based on available advertising inventory so as to implement the plan (Kurtzman '944: col. 6, ln. 6 to col. 7, ln. 2).

Claims 3 and 13:

Regarding Claim 3, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose all the limitations of Claims 2 and 12 (supra). Additionally, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose: wherein receiving, for each advertisement, the schedule, the location, the advertising type and the weight comprises receiving continuously, periodically, or sporadically the schedule, the advertising type, and the weight from the planning module (Logan '827: col. 5, lns. 20-36 – note that Logan '827 supports a wide variety of frequencies of downloading, which reads on support for continuous, periodic, and sporadic updates).

Claim 14:

Regarding Claim 14 Logan '827, Cannon '005, and Kurtzman '944 in combination disclose all the limitations of Claim 11 (supra). Additionally, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose: wherein the computer-executed instructions further comprise:

- program code means for defining at least one attribute from at least one of:
  - o a schedule time for the advertisement;
  - o a duration of the advertisement;
  - o a time zone shift of the advertisement;
  - o an indicator of type for the advertisement schedule;
  - o a weight of the advertisement;
  - o a demographic target for the advertisement; and
  - o a display area for the advertisement (Logan '827: col. 5, lns. 37-49; col. 2, lns. 10-24; col. 24, lns. 1-15; col. 24, lns. 20-27; col. 25, lns. 15-20; col. 25, lns. 26-45 – note that in general, the calculation of the weight provides for input from many attributes, and any number and type of attributes are supported as per Logan '827: col. 44, lns. 33-39); and
- program code means for storing the at least one attribute (Logan '827: col. 6, ln. 65 to col. 7, ln. 3; col. 7, lns. 22-25).

Claim 4, 6-7, 9, 16, and 18:

Regarding Claims 4, 6-7, 9, 16, and 18, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose all the limitations of Claims 1 and 14 (supra). Additionally, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose:



- (Claim 4) the act of generating the data file comprises the acts of:
  - o defining at least one attribute from at least one of:
    - a schedule time for the advertisement;
    - a display area for the advertisement;
    - a duration of the advertisement;
    - a time zone shift for the advertisement schedule time;
    - an indicator of type of the advertisement;
    - a weight of the advertisement; and
    - a demographic target of the advertisement; (Logan '827: col. 5, lns. 37-49; col. 2, lns. 10-24; col. 24, lns. 1-15; col. 24, lns. 20-27; col. 25, lns. 15-20; col. 25, lns. 26-45 – note that in general, the calculation of the weight provides for input from many attributes, and any number and type of attributes are supported as per Logan '827: col. 44, lns. 33-39) and
  - o storing the at least one attribute at the receiver module (Logan '827: col. 6, ln. 65 to col. 7, ln. 3; col. 7, lns. 22-25).
- (Claims 5 and 15) wherein delivering the advertisement content and the data file comprises:
  - o identifying a time when the advertisement content is to be displayed to the viewer (Logan '827: col. 7, lns. 22-45 – note that by virtue of placement of data in the sequence of the Program Sequence File, a time to play is specified (although the viewer may override));

- identifying a rule stored at the control module, the rule defining when to deliver the advertisement content and the data file (Logan '827: col. 5, lns. 24-27); and
  - based upon the time and the rule, delivering the advertisement content and the data file to the at least one receiver module (Logan '827: col. 5, lns. 20-46).
- (Claims 6 and 16) delivering the advertisement content and the data file comprises delivering the advertisement content and the data file to the at least one receiver module (Logan '827: col. 6, ln. 65 to col. 7, ln. 3; col. 7, lns. 22-25).
- (Claim 7) an individual scheduling the advertisement content defines the advertising impression goal used to define the advertising weight (Logan '827: col. 9, ln. 51 to col. 10, ln. 5; col. 25, lns. 26-45 – note the ChargeLevel parameter reads on an impression goal).
- (Claims 9 and 18) further comprising receiving historical data from the at least one receiver module, the historical data defining the viewing activities of the viewer at the at least one receiver module (Logan '827: col. 5, lns. 50-67; col. 7, lns. 40-45; col. 5, lns. 7-19).

Claims 8 and 17:

Regarding Claims 8 and 17, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose all the limitations of Claims 1 and 14 (supra). Additionally, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose use of an advertising type (Logan '827: col. 24, lns. 20-27 – note Subject Type reads on Advertisement Type). However, Logan '827 does not explicitly disclose: wherein the advertising type defines whether the advertising

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weight is an absolute weight or a relative weight. Furthermore, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose: an advertising weight is an absolute weight or a relative weight (Cannon '005: col. 34, Ins. 19-22 (historical data reads on an absolute value); col. 34, Ins. 42-45 (indices as described read on a relative value)).

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Logan '827, Cannon '005, and Kurtzman '944 in view of Applicant Admitted Prior Art (hereafter AAPA).

Claim 10:

Regarding Claim 10, Logan '827, Cannon '005, and Kurtzman '944 in combination discloses all the limitations of Claim 1 (supra). Additionally, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose use of an advertising type (Logan '827: col. 24, Ins. 20-27 – note Subject Type reads on Advertisement Type). Furthermore, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose the ability to display advertisements in a committed fashion and a flexible fashion (Logan '827: col. 25, Ins. 37-40 – note the distinction between advertising that is prioritized and put into the program schedule, versus advertising that is inserted as filler in order to match the ChargeLevel proportion). However, Logan '827, Cannon '005, and Kurtzman '944 in combination do not explicitly disclose: wherein the advertising type defines the advertisement as either a committed advertisement or a flexible advertisement.

AAPA discloses committed advertisement and flexible advertisement (Specification: para. [09]).

It would have been obvious to a person having ordinary skill in the art to substitute the advertising type of Logan '827, Cannon '005, and Kurtzman '944 in combination, which is set as

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subject type, to an indication of the committed and flexible types as set forth in AAPA. The motivation to combine is suggested by Logan '827 which discloses the advantage of being able to fully fill a program schedule with different priorities of advertising, which would be optimized with an indicator of committed vs. flexible advertising (Logan '827: col. 25, lns. 40-45).

4. Claims 49 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan '827, Cannon '005, and Kurtzman '944 in view of U.S. Patent No. 5,999,912 issued to Wodarz et al. (hereafter Wodarz '912).

Claims 49 and 55:

Regarding Claims 49 and 55, Logan '827, Cannon '005, and Kurtzman '944 in combination disclose all the limitations of Claims 1 and 11 (supra). However, Logan '827, Cannon '005, and Kurtzman '944 in combination do not explicitly disclose: wherein the location defines a particular location on a screen of displayed video where the advertisement should be rendered.

Wodarz '912 discloses wherein the location defines a particular location on a screen of displayed video where the advertisement should be rendered (Wodarz '912: col. 1, lns. 40-42; col. 4, lns. 16-20; Figs. 1a and 1b).

It would have been obvious to a person having ordinary skill in the art to apply the ad tags of Wodarz '912 to the Logan '827, Cannon '005, and Kurtzman '944 combination. The motivation to combine is suggested by Wodarz '912 which discloses that the ad tags of Wodarz '912 automate the placement of ads on a display such as that of the advertising system of Logan

'827, Cannon '005, and Kurtzman '944 combination, thus saving time and money (Wodarz '912: col. 1, lns. 24-32).

5. Claims 50 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan '827, Cannon '005, and Kurtzman '944 in view of Wodarz '912, in further view of U.S. Patent No. 6,813,775 as issued to Finseth et al. (hereafter Finseth '775).

Claims 50 and 56:

Examiner notes that the Logan '827, Cannon '005, Kurtzman '944, and Wodarz '912 as described and combined in Claims 49 and 55 (supra), implement HTML targets (Wodarz '912: col. 1, lns. 35-52). However, Logan '827, Cannon '005, Kurtzman '944, and Wodarz '912 in combination does not explicitly disclose that the HTML target is an EPG.

Finseth '775 discloses an EPG that is an HTML target (Finseth '775: col. 5, lns. 56-62).

It would have been obvious to a person having ordinary skill in the art to further combine the EPG of Finseth '775 to the Logan '827, Cannon '005, Kurtzman '944, and Wodarz '912 combination. The motivation to combine is suggested by Finseth '775 which discloses the advantage of providing conditional content such as advertisements such as those of the Logan '827, Cannon '005, Kurtzman '944, and Wodarz '912 combination, via television broadcast systems (Finseth '775: col. 2, lns. 3-11; col. 1, lns. 51-54).

6. Claims 51 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan '827, Cannon '005, and Kurtzman '944 in view of Wodarz '912, in further view of U.S. Patent No. 6,012,984 as issued to Roseman. (hereafter Roseman '984).

Claims 50 and 56:

Examiner notes that the Logan '827, Cannon '005, Kurtzman '944, and Wodarz '912 as described and combined in Claims 49 and 55 (supra), implement HTML targets (Wodarz '912: col. 1, lns. 35-52). However, Logan '827, Cannon '005, Kurtzman '944, and Wodarz '912 in combination does not explicitly disclose that the HTML target is a game.

Roseman '984 discloses a game that is an HTML target (Roseman '984: col. 10, lns. 36-41; Fig. 3).

It would have been obvious to a person having ordinary skill in the art to further combine the game of Roseman '984 to the Logan '827, Cannon '005, Kurtzman '944, and Wodarz '912 combination. The motivation to combine is suggested by Roseman '984 which discloses added ability of providing advertising such as those of the Logan '827, Cannon '005, Kurtzman '944, and Wodarz '912 combination, onto a game environment (Roseman '984: col. 9, lns. 65-67).

***Response to Arguments***

7. Applicant's arguments filed August 20, 2004 have been fully considered but they are not persuasive. Examiner's response to amendments are as follows:

- Applicants added limitations to Claims 1 and 11 regarding the relationship of weights to order and frequency have been addressed by the addition of Cannon '005 and Kurtzman '944 (Amendment: p. 10, lns. 19-25) to the rejections of Claims 1 and 11.
- Applicants new claims regarding the dynamic modification of weights have been addressed by Kurtzman '944 (Amendment: p. 11, lns. 3-7) in the rejections of Claims 54 and 60.

- Applicant's new claims regarding defined time period are addressed by Logan '827 (Amendment: p. 11, lns. 8-10) in the rejections of Claims 53 and 59.
- Applicant's new claims regarding EPG and games are addressed by Finseth '775 and Roseman '984 respectively (Amendment: p. 11, lns. 10-11) in the rejections of Claims 49-51 and 55-57).

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J.D. Santos whose telephone number is 571-272-4028. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patrick J.D. Santos  
January 21, 2005

  
WAYNE AMSBURY  
PRIMARY PATENT EXAMINER